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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 ELLEN SUHASINI DAVID
321 O'Connor Street
13 Menlo Park, California 94025
Registered Nurse License No. 644127
14 Nurse Practitioner Certificate No. 15346
Nurse Practitioner Furnishing No. 15346

Case No. *2013-205*

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about September 1, 2004, the Board of Registered Nursing issued Registered
23 Nurse License Number 644127 to Ellen Suhasini David (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on September 30, 2012, unless renewed.

26 3. On or about October 19, 2004, the Board of Registered Nursing issued Nurse
27 Practitioner Certificate Number 15346 to Ellen Suhasini David (Respondent). The Nurse
28

1 Practitioner Certificate was in full force and effect at all times relevant to the charges brought in
2 this Accusation and will expire on September 30, 2012, unless renewed.

3 ~~4. On or about April 21, 2006, the Board of Registered Nursing issued Nurse~~
4 Practitioner Furnishing Number 15346 to Ellen Suhasini David (Respondent). The Nurse
5 Practitioner Furnishing was in full force and effect at all times relevant to the charges brought in
6 this Accusation and will expire on September 30, 2012, unless renewed.

7 JURISDICTION

8 5. This Accusation is brought before the Board of Registered Nursing (Board),
9 Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11 6. Section 118, subdivision (b), provides:

12 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
13 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
14 of a court of law, or its surrender without the written consent of the board, shall not, during any
15 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
16 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
17 provided by law or to enter an order suspending or revoking the license or otherwise taking
18 disciplinary action against the licensee on any such ground."

19 7. Section 2750 provides:

20 "Every certificate holder or licensee, including licensees holding temporary licenses, or
21 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
22 article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this
23 article, "license" includes certificate, registration, or any other authorization to engage in practice
24 regulated by this chapter. The proceedings under this article shall be conducted in accordance
25 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
26 Government Code, and the board shall have all the powers granted therein."

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28 ///

1 8. Section 2759 provides:

2 “The board shall discipline the holder of any license, whose default has been entered or
3 who has been heard by the board and found guilty, by any of the following methods:

4 “(a) Suspending judgment.

5 “(b) Placing him upon probation.

6 “(c) Suspending his right to practice nursing for a period not exceeding one year.

7 “(d) Revoking his license.

8 “(e) Taking such other action in relation to disciplining him as the board in its discretion
9 may deem proper.”

10 9. Section 2764 provides:

11 “The lapsing or suspension of a license by operation of law or by order or decision of the
12 board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the
13 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
14 against such license, or to render a decision suspending or revoking such license.”

15 STATUTORY AND REGULATORY PROVISIONS

16 10. Section 2761 of the Code states:

17 “The board may take disciplinary action against a certified or licensed nurse or deny an
18 application for a certificate or license for any of the following:

19 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

20 ...

21 “(f) Conviction of a felony or of any offense substantially related to the qualifications,
22 functions, and duties of a registered nurse, in which event the record of the conviction shall be
23 conclusive evidence thereof.”

24 11. Section 2762 of the Code states:

25 “In addition to other acts constituting unprofessional conduct within the meaning of this
26 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
27 chapter to do any of the following:

28 ...

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.”

12. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

13. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.”

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

15. On or about March 12, 2011, at approximately 2:30 a.m., a police officer from the Palo Alto Police Department was patrolling the downtown area of Palo Alto, California. The officer noticed a vehicle repeatedly veering into the bike lane and crossing a painted white line used to separate the motor vehicle lane from the bike lane. The officer activated his emergency

1 lights and the vehicle pulled over to the side of the road. The officer noticed that the driver had
2 red bloodshot and watery eyes. The officer could smell an odor of alcohol coming from inside
3 the vehicle. The officer asked the driver for her driver license, vehicle registration, and proof of
4 insurance. Respondent told the officer that she never drives drunk nor does she go out to bars.
5 However, during the pre-miranda interview with Respondent, she admitted to the officer that she
6 had been drinking beer. When the officer asked her if she felt the affects of the beer, Respondent
7 said, "of course."

8 16. The officer asked Respondent to step out of the vehicle to perform four different field
9 sobriety tests, all of which Respondent failed to perform satisfactorily. The officer read the
10 preliminary alcohol screening admonishment to Respondent and asked her if she wanted to give a
11 breath sample. Respondent said, "What do you think? It's probably pretty high." The officer
12 then arrested Respondent for suspicion of driving under the influence. Respondent was taken to
13 the police station where she submitted to a blood sample, which resulted in a Blood Alcohol
14 Concentration (BAC) of 0.230%.

15 17. On or about June 15, 2011, in a criminal proceeding entitled *The People of the State*
16 *of California v. Ellen Suhasini David*, in the Santa Clara County Superior Court, Case Number
17 B1153236, Respondent was convicted by plea of nolo contendere to one count of violating
18 California Vehicle Code section 23578 (driving while having a 0.08 percent or higher blood
19 alcohol). Respondent was sentenced to twelve days in jail, ordered to enroll in and complete an
20 alcohol and drug program, and ordered to pay fines in the amount of \$1,995.00. Respondent was
21 also placed on probation for three years.

22 FIRST CAUSE FOR DISCIPLINE

23 (Criminal Conviction)

24 (Bus. & Prof. Code §§ 490 (a) and 2761(f))

25 18. Complainant realleges the allegations of paragraph 17 above, and incorporates it by
26 reference as if fully set forth.

27 19. Respondent has subjected her registered nurse license, nurse practitioner
28 certificate, and nurse practitioner furnishing to disciplinary action under sections 490, subdivision

1 (a), 2761, subdivision (f), for a criminal conviction. As set forth in paragraph 17 above, she was
2 convicted of a misdemeanor violation of Vehicle Code 23152, subdivision (b).

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)
5 (Bus. & Prof. Code §§ 2761(a) and 2762(b))

6 20. Complainant realleges the allegations of paragraphs 15 through 17 above, and
7 incorporates them by reference as if fully set forth.

8 21. Respondent has subjected her registered nurse license, nurse practitioner certificate,
9 and nurse practitioner furnishing to disciplinary action under Code section 2761, subdivision (a),
10 for unprofessional conduct, as defined by Code section 2762, subdivision (b), for use of alcohol
11 in a dangerous manner. As set forth in paragraphs 15 through 17 above, she used alcoholic
12 beverages in a manner dangerous or injurious to herself or the public by driving while
13 intoxicated.

14 THIRD CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct – Criminal Conviction)
16 (Bus. & Prof. Code §§ 2761(a) and 2762(c))

17 22. Complainant realleges the allegations contained in paragraphs 15 through 17 above,
18 and incorporates them by reference as if fully set forth.

19 23. Respondent has subjected her registered nurse license, nurse practitioner certificate,
20 and nurse practitioner furnishing to disciplinary action under Code sections 490, 2761,
21 subdivision (a), for unprofessional conduct, as defined by section 2762, subdivision (c), for
22 driving with a blood alcohol level of 0.08 or more. As set forth in paragraph 17 above, she was
23 convicted of a misdemeanor violation of Vehicle Code 23152, subdivision (b), for driving with a
24 blood alcohol level of 0.08 or more.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
27 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

28 1. Revoking or suspending Registered Nurse License Number 644127, issued to Ellen
Suhasini David;


1 2. Revoking or suspending Nurse Practitioner Certificate Number 15346, issued to Ellen
2 Suhasini David;

3 ~~3. Revoking or suspending Nurse Practitioner Furnishing Number 15346, issued to~~
4 Ellen Suhasini David;

5 4. Ordering Ellen Suhasini David to pay the Board of Registered Nursing the reasonable
6 costs of the investigation and enforcement of this case, pursuant to Business and Professions
7 Code section 125.3;

8 5. Taking such other and further action as deemed necessary and proper.
9

10 DATED: SEPTEMBER 25, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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